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| APPLICATION NO | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO | CONFIRMATION NO |
|----------------|-------------|----------------------|--------------------|-----------------|
| 09 939,770 | 08 28 2001 | Kenetsu Yokogawa | NIIT 0030 | 3181 |

7590 02 26 2003

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EXAMINER

POWELL, WILLIAM A

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 1765 | C ✓ |

DATE MAILED: 02 26 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

| | |
|---------------------------|------------------------|
| Application No. | Applicant(s) |
| 09/938,770 | Yokoyama et al. |
| Examiner Wm. A. Powell | Group Art Unit 1765 |

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

Responsive to communication(s) filed on Aug. 28, 2001

This action is **FINAL**.

Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

Claim(s) 1 - 40 is/are pending in the application.

Of the above claim(s) 0 is/are withdrawn from consideration.

Claim(s) 35 is/are allowed.

Claim(s) 1-34, 36-40 is/are rejected.

Claim(s) _____ is/are objected to.

Claim(s) _____ are subject to restriction or election requirement

Application Papers

The proposed drawing ~~correction~~, filed on 08/28/01 is approved disapproved.

The drawing(s) filed on _____ is/are objected to by the Examiner

The specification is objected to by the Examiner.

The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

All Some* None of the:

Certified copies of the priority documents have been received.

Certified copies of the priority documents have been received in Application No. _____.

Copies of the certified copies of the priority documents have been received
in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

Information Disclosure Statement(s), PTO-1449, Paper No(s). 3 Interview Summary, PTO-413

Notice of Reference(s) Cited, PTO-892 Notice of Informal Patent Application, PTO-152

Notice of Draftsperson's Patent Drawing Review, PTO-948 Other _____

Office Action Summary

1. Claims 1-18, 20-34 and 36-40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The expression "predetermined", as recited in these claims renders the same indefinite since it is not clear what such may include. Also, in claim 20 there is no clear antecedent basis for "said predetermined gas". Clarification of the above is requested. The expression could be canceled to clarify the claims.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

3. (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claim 19 is rejected under 35 U.S.C. 102(a) as being anticipated by Singh et al.

Singh et al teach that first and second gases maybe directed toward a substrate in a process chamber. Note, Fig. 2 of Singh et al. This claim is not considered to recite a method which is patentably distinct over that of the reference.

5. Claim 35 appear to be in condition for allowance.

6. Mosleki and Baitnott et al. have been cited to further show the state of the art.

Any inquiry concerning this communication should be directed to William Powell at telephone number (703) 308-1975.

W. Powell/mn
February 24, 2003

William Powell
WILLIAM A. POWELL
PRIMARY EXAMINER